

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

RAYMOND MIRACLE,

Petitioner,

v.

//

CIVIL ACTION NO. 1:12CV183
(Judge Keeley)

RUSSELL PERDUE,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION

On December 27, 2012, the pro se petitioner, Raymond Miracle ("Miracle"), filed a petition pursuant to 28 U.S.C. § 2254, which the Court referred to United States Magistrate Judge John S. Kaull for initial screening and a report and recommendation in accordance with LR PL P 2. On March 8, 2013, the respondent, Russell Perdue ("Perdue"), filed a Motion to Dismiss, or in the alternative, Motion for Summary Judgment (dkt. no. 16). Miracle filed a response to Perdue's motion on March 27, 2013 (dkt. no. 24).

On June 21, 2013, Magistrate Judge Kaull issued an Opinion and Report and Recommendation ("R&R"), in which he recommended that Perdue's motion to dismiss be granted and Miracle's § 2254 petition be denied and dismissed with prejudice. (Dkt. No. 25). The magistrate judge determined that Miracle's claims were without merit and failed to establish a viable § 2254 claim.

ORDER ADOPTING REPORT AND RECOMMENDATION

The R&R also specifically warned Miracle that his failure to object to the recommendation would result in the waiver of any appellate rights he might otherwise have on this issue. The parties did not file any objections.* Consequently, finding no clear error, the Court **ADOPTS** the Report and Recommendation in its entirety (dkt. no. 25), **GRANTS** the motion to dismiss (dkt. no. 16), **DENIES** the § 2254 petition (dkt. no 1), and **ORDERS** that this case be **DISMISSED WITH PREJUDICE** and stricken from the Court's docket.

It is so **ORDERED**.

Pursuant to Fed. R. Civ. P. 58, the Court directs the Clerk of Court to enter a separate judgment order and to transmit copies of both orders to counsel of record and to the pro se petitioner, certified mail, return receipt requested.

Dated: October 2, 2013.

/s/ Irene M. Keeley

IRENE M. KEELEY

UNITED STATES DISTRICT JUDGE

* The failure to object to the Report and Recommendation not only waives the appellate rights in this matter, but also relieves the Court of any obligation to conduct a de novo review of the issue presented. See Thomas v. Arn, 474 U.S. 140, 148-153 (1985); Wells v. Shriners Hosp., 109 F.3d 198, 199-200 (4th Cir. 1997).